

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

DEBRA FEHR, INDIVIDUALLY AND
AS REPRESENTATIVE OF THE
ESTATES OF MARVIN WIRTJES AND
SHIRLEY WIRTJES; and
THERESA RILEY, INDIVIDUALLY,

Plaintiffs,

and

RASHEED WALL; and
AKEEM HOPKINS,

Intervenors,

and

JOAQUIN MURRIETA,

Intervenor,

v.

UNICORN FREIGHT, LLC;
DIEBEL TRANSPORTATION, LLC;
THE ESTATE OF DONALD DIEBEL,
JR.; and
J.B. HUNT TRANSPORT, INC.,

Defendants.

EP-23-CV-00271-DCG

**ORDER ADOPTING REPORT AND RECOMMENDATION IN FULL AND
REMANDING THE ABOVE-CAPTIONED CASE**

On April 22, 2025, the Court referred Plaintiffs' and Intervenor Plaintiffs' "Motions to Remand" (ECF Nos. 5, 6, and 8) (collectively, the "Motions") to U.S. Magistrate Judge Anne T. Berton for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). *See* Referral

Order, ECF No. 21. On July 21, 2025, Judge Berton issued her Report and Recommendation, recommending that the Motions be granted. R. & R., ECF No. 24.

Parties have fourteen days from service of a Report and Recommendation of a United States Magistrate Judge to file written objections. *See* 28 U.S.C. § 636(b)(1)(C). Over fourteen days have elapsed since all parties were served with the R. & R., and no objections have been filed.¹

When parties do not file written objections, courts apply a “clearly erroneous, abuse of discretion and contrary to law” standard of review to a report and recommendation. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (“[T]he ‘clearly erroneous, abuse of discretion and contrary to law’ standard of review . . . is appropriate . . . where there has been no objection to the magistrate's ruling.”); *Rodriguez v. Bowen*, 857 F.2d 275, 276–77 (5th Cir. 1988) (“[A] party is not entitled to de novo review of a magistrate's finding and recommendations if objections are not raised in writing by the aggrieved party ... after being served with a copy of the magistrate's report.”).²

Having carefully reviewed the Report and Recommendation, the Court concludes that it is neither clearly erroneous nor contrary to law. The Court therefore **ADOPTS** the Report and Recommendation in its entirety.

Accordingly, the Court **GRANTS** Plaintiffs’ and Intervenor Plaintiffs’ “Motions to Remand” (ECF Nos. 5, 6, and 8).

The parties’ joint request for a status conference (ECF No. 16) is thus **MOOT**.


¹ All parties were electronically served with a copy of the R&R on July 21, 2025. *See* R. & R., ECF No. 24. The deadline to file objections thus fell on August 4, 2025.

² In contrast, district judges conduct a de novo review of those portions of a report and recommendation to which a party has objected. *See* 28 U.S.C. § 636(b)(1)(C) (“A judge ... shall make a de novo determination of those portions of the report ... to which objection is made....”).

The Clerk of Court **SHALL REMAND** this case back to County Court at Law No. 3 of El Paso County, Texas.

The Clerk of Court **SHALL CLOSE** this federal case.

So ORDERED and SIGNED this 5th day of August 2025.



DAVID C. GUADERRAMA
SENIOR U.S. DISTRICT JUDGE